

AMENDED IN SENATE AUGUST 24, 2012
AMENDED IN SENATE AUGUST 21, 2012
AMENDED IN SENATE AUGUST 6, 2012
AMENDED IN SENATE JUNE 26, 2012
AMENDED IN ASSEMBLY MAY 25, 2012
AMENDED IN ASSEMBLY MAY 10, 2012
AMENDED IN ASSEMBLY MAY 1, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1990

Introduced by Assembly Member Fong

February 23, 2012

An act to amend and renumber Section 387.6 of, and to add Sections 399.23 and 399.33 to, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1990, as amended, Fong. Renewable energy resources: renewable feed-in tariff set aside for most impacted and disadvantaged communities.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined, while local publicly owned electric utilities, as defined, are under the direction of their governing board. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility,

as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the PUC to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing decisions of the PUC implementing these requirements refer to these tariff requirements as a renewable feed-in tariff. Existing law requires a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers to adopt and implement a tariff for electricity purchased from an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. Under existing law, the obligation of an electrical corporation or local publicly owned electric utility to make a renewable feed-in tariff available to additional electric generation facilities terminates once the generating capacity of the electric generation facilities receiving service pursuant to the utility's renewable feed-in tariff reaching its proportionate share of a statewide cap of 750 megawatts of cumulative rated generating capacity served pursuant to renewable feed-in tariffs.

This bill would require the commission, by August 1, 2014, to add an additional 125 megawatts of cumulative rated generation capacity, split proportionately between the state's electrical corporations, to the proportion of the statewide cap of 750 megawatts that is applicable to electric generation facilities that are eligible for service pursuant to renewable feed-in tariffs. The bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers, by August 1, 2014, to add an additional 65 megawatts of cumulative rated generation capacity, split proportionately between those utilities, to the proportion of the statewide cap of 750 megawatts that is applicable to electric generation facilities that are eligible for service pursuant to renewable feed-in tariffs. The bill would limit eligibility for the additional generation capacity to electric generation facilities with a

rated capacity under 500 kilowatts that are located in the state's most impacted and disadvantaged communities, as defined.

Existing law provides that the electricity purchased from an electric generation facility counts toward meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets.

This bill would move this requirement to that portion of the Public Utilities Code concerning the California Renewables Portfolio Standard Program and would require that the tariff be adopted by July 1, 2013. The bill would make other technical and nonsubstantive changes.

Existing law requires that the governing board of a local publicly owned utility ensure that the adopted tariff reflects the value of every kilowatthour of electricity generated on a time-of-delivery basis.

This bill would additionally require the board to consider avoided costs for distribution and transmission system upgrades, whether the facility generates electricity in a manner that offsets peak demand on the distribution circuit, and all current and anticipated environmental and greenhouse gases reduction compliance costs.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by expanding the application of a crime. Because the bill would impose various duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to support
- 2 small-scale local clean energy in communities throughout the state
- 3 in order to increase green jobs and businesses that benefit the

1 communities where electrical utility customers live, especially in
2 the most impacted and disadvantaged communities with high
3 unemployment that bear a disproportionate burden from air
4 pollution, disease, and other impacts from the generation of
5 electricity from the burning of fossil fuels.

6 SEC. 2. Section 387.6 of the Public Utilities Code is amended
7 and renumbered to read:

8 399.32. (a) It is the policy of the state and the intent of the
9 Legislature to encourage electrical generation from eligible
10 renewable energy resources.

11 (b) As used in this section, “electric generation facility” means
12 an electric generation facility located within the service territory
13 of, and developed to sell electricity to, a local publicly owned
14 electric utility, and that meets all of the following criteria:

15 (1) Has an effective capacity of not more than three megawatts.

16 (2) Is interconnected and operates in parallel with the electrical
17 transmission and distribution grid.

18 (3) Is strategically located and interconnected to the electrical
19 transmission and distribution grid in a manner that optimizes the
20 deliverability of electricity generated at the facility to load centers.

21 (4) Is an eligible renewable energy resource pursuant to this
22 article.

23 (c) A local publicly owned electric utility that sells electricity
24 at retail to 75,000 or more customers shall adopt a standard tariff
25 for electricity purchased from an electric generation facility *by*
26 *July 1, 2013*.

27 (d) The governing board of the local publicly owned electric
28 utility shall ensure that the tariff adopted pursuant to subdivision
29 (c) reflects the value of every kilowatthour of electricity generated
30 on a time-of-delivery basis, *and shall consider avoided costs for*
31 *distribution and transmission system upgrades, whether the facility*
32 *generates electricity in a manner that offsets peak demand on the*
33 *distribution circuit, and all current and anticipated environmental*
34 *and greenhouse gases reduction compliance costs*. The governing
35 board may adjust this value based on the other attributes of
36 renewable generation. The governing board shall ensure, with
37 respect to rates and charges, that ratepayers that do not receive
38 service pursuant to the tariff are indifferent to whether a ratepayer
39 with an electric generation facility receives service pursuant to the
40 tariff.

1 (e) A local publicly owned electric utility that sells electricity
2 at retail to 75,000 or more customers shall make the tariff available
3 to the owner or operator of an electric generation facility within
4 the service territory of the utility, upon request, on a
5 first-come-first-served basis, until the utility meets its proportionate
6 share of a statewide cap of 750 megawatts cumulative rated
7 generation capacity served under this section and Section 399.20.
8 The proportionate share shall be calculated based on the ratio of
9 the utility's peak demand compared to the total statewide peak
10 demand.

11 (f) The local publicly owned electric utility may make the terms
12 of the tariff available to owners and operators of an electric
13 generation facility in the form of a standard contract.

14 (g) Every kilowatthour of electricity purchased from an electric
15 generation facility shall count toward meeting the local publicly
16 owned electric utility's renewables portfolio standard annual
17 procurement targets for purposes of Section 399.30.

18 (h) (1) A local publicly owned electric utility may establish
19 performance standards for any electric generation facility that has
20 a capacity greater than one megawatt to ensure that those facilities
21 are constructed, operated, and maintained to generate the expected
22 annual net production of electricity and do not impact system
23 reliability.

24 (2) A local publicly owned electric utility may reduce the three
25 megawatt capacity limitation of paragraph (1) of subdivision (b)
26 if the utility finds that a reduced capacity limitation is necessary.

27 (i) Within 10 days of receipt of a request for a tariff pursuant
28 to this section from an owner or operator of an electric generation
29 facility, the local publicly owned electric utility that receives the
30 request shall post a copy of the request on its Internet Web site.
31 The information posted on the Internet Web site shall include the
32 name of the city in which the facility is located, but information
33 that is proprietary and confidential, including, but not limited to,
34 address information beyond the name of the city in which the
35 facility is located, shall be redacted.

36 (j) A local publicly owned electric utility may deny a tariff
37 request pursuant to this section if the local publicly owned electric
38 utility makes any of the following findings:

39 (1) The electric generation facility does not meet the
40 requirements of this section.

1 (2) The transmission or distribution grid that would serve as the
2 point of interconnection is inadequate.

3 (3) The electric generation facility does not meet all applicable
4 state and local laws and building standards and utility
5 interconnection requirements.

6 (4) The aggregate of all electric generating facilities on a
7 distribution circuit would adversely impact utility operation and
8 load restoration efforts of the distribution system.

9 (k) Upon receiving a notice of denial from a local publicly
10 owned electric utility, the owner or operator of the electric
11 generation facility denied a tariff pursuant to this section shall have
12 the right to appeal that decision to the governing board of the local
13 publicly owned electric utility.

14 (l) In order to ensure the safety and reliability of electric
15 generation facilities, the owner of an electric generation facility
16 receiving a tariff pursuant to this section shall provide an inspection
17 and maintenance report to the local publicly owned electric utility
18 at least once every other year. The inspection and maintenance
19 report shall be prepared at the owner's or operator's expense by a
20 California-licensed contractor who is not the owner or operator of
21 the electric generation facility. A California-licensed electrician
22 shall perform the inspection of the electrical portion of the
23 generation facility.

24 (m) The contract between the electric generation facility
25 receiving the tariff and the local publicly owned electric utility
26 shall contain provisions that ensure that construction of the electric
27 generating facility complies with all applicable state and local laws
28 and building standards, and utility interconnection requirements.

29 (n) (1) All construction and installation of facilities of the local
30 publicly owned electric utility, including at the point of the output
31 meter or at the transmission or distribution grid, shall only be
32 performed by that local publicly owned electric utility.

33 (2) All interconnection facilities installed on the local publicly
34 owned electric utility's side of the transfer point for electricity
35 between the local publicly owned electric utility and the electrical
36 conductors of the electric generation facility shall be owned,
37 operated, and maintained only by the local publicly owned electric
38 utility. The ownership, installation, operation, reading, and testing
39 of revenue metering equipment for electric generating facilities
40 shall be performed only by the local publicly owned electric utility.

1 SEC. 3. Section 399.23 is added to the Public Utilities Code,
2 to read:

3 399.23. (a) For purposes of this section, “most impacted and
4 disadvantaged communities” means census tracts that are identified
5 by the Governor’s Office of Planning and Research, in consultation
6 with the Office of the Secretary of the Environment, using the best
7 available data to consider the following categories of vulnerability:

8 (1) Health risk and exposure from environmental hazards.

9 (2) Socioeconomic vulnerability.

10 (3) Climate vulnerability.

11 (4) Proximity of sensitive land uses.

12 (b) By not later than August 1, 2014, the commission shall add
13 an additional 125 megawatts of cumulative rated generation
14 capacity, split proportionately between the state’s electrical
15 corporations, to the proportion of the statewide cap of 750
16 megawatts that is applicable to electric generation facilities that
17 are eligible for the tariffs required by Section 399.20. Eligibility
18 for the additional 125 megawatts of cumulative rated generation
19 capacity shall be limited to electric generation facilities with a
20 rated capacity under 500 kilowatts that are located in the state’s
21 most impacted and disadvantaged communities.

22 SEC. 4. Section 399.33 is added to the Public Utilities Code,
23 to read:

24 399.33. (a) For purposes of this section, “most impacted and
25 disadvantaged communities” has the same meaning as defined in
26 subdivision (a) of Section 399.23.

27 (b) By not later than August 1, 2014, a local publicly owned
28 electric utility that sells electricity at retail to 75,000 or more
29 customers shall add an additional 65 megawatts of cumulative
30 rated generation capacity, split proportionately between those
31 utilities, to the proportion of the statewide cap of 750 megawatts
32 that is applicable to electric generation facilities that are eligible
33 for the tariffs required by Section 399.32. Eligibility for the
34 additional 65 megawatts of cumulative rated generation capacity
35 shall be limited to electric generation facilities with a rated capacity
36 under 500 kilowatts that are located in the state’s most impacted
37 and disadvantaged communities.

38 SEC. 5. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 a local agency or school district has the authority to levy service

1 charges, fees, or assessments sufficient to pay for the program or
2 level of service mandated by this act or because costs that may be
3 incurred by a local agency or school district will be incurred
4 because this act creates a new crime or infraction, eliminates a
5 crime or infraction, or changes the penalty for a crime or infraction,
6 within the meaning of Section 17556 of the Government Code, or
7 changes the definition of a crime within the meaning of Section 6
8 of Article XIII B of the California Constitution.

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